

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GIRL SCOUTS OF THE UNITED STATES
OF AMERICA,

Plaintiff,

v.

BOY SCOUTS OF AMERICA,

Defendant.

Case No. 1:18-cv-10287 (AKH)

**DECLARATION OF MICHAEL RAMSEY IN SUPPORT OF
THE BOY SCOUTS OF AMERICA’S MOTION FOR SUMMARY JUDGMENT**

I, Michael Ramsey, declare as follows:

1. I am the Director, Marketing and Brand of the Boy Scouts of America National Council (“BSA”). My duties include overseeing marketing and branding for the BSA. I have held this position since 2008. I previously served in various positions for the BSA and for certain BSA local councils dating back 27 years to 1993, including serving as the Marketing Director for the Circle Ten Council, based in Dallas, Texas from 2006 to 2008. I have personal knowledge of all the facts set forth in this declaration, and if called upon to do so by the Court, I could and would testify competently thereto.

The BSA’s Brand Guidelines and Brand Center

2. For decades, including during my tenure, the BSA has issued brand guidelines specifying the proper colors, logos, fonts and terminology to use in marketing each BSA program. A true and correct copy of the BSA’s current brand guidelines are attached hereto as **Exhibit R**. (BSA00170733). My team and I are responsible for maintaining and updating these brand guidelines. The BSA works hard to maintain its strong brand identity, which is anchored in decades of marketing in the field, and supported by the BSA’s sizeable intellectual property

portfolio. For instance, the BSA owns more than 150 registered trademarks and 600 web domains, in addition to the hundreds of common law trademarks it owns and uses every day.

3. The BSA's various trademarks are often accompanied by Cub Scout colors of blue and gold, or BSA corporate colors of blue, white, and red. They also consistently appear alongside other recognized BSA source indicia, including its iconic fleur-de-lis logo and the BSA name, and, when appropriate, the well-known mark "Eagle Scout," or, in the case of Cub Scouts, in connection with Cub Scouts' distinctive wolf in the diamond logo and the name "Cub Scouts."

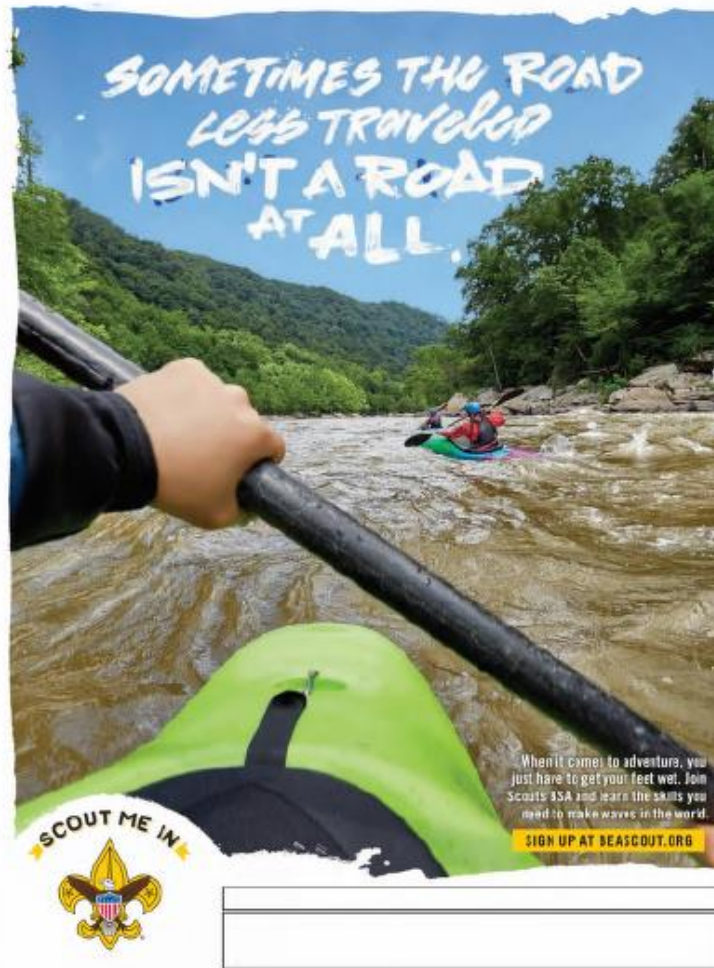
4. The BSA generates marketing template materials for each of the BSA's programs, including the Cub Scouts program for younger youth and the Scouts BSA (formerly Boy Scouts) program for older youth. Local Councils are encouraged to use these ready-made templates. Different BSA employees manage the marketing for each of these programs, which are geared to different audiences. Darin Kinn manages all Cub Scouts marketing materials prepared by the BSA, while Thomas Rugh manages all marketing materials prepared by the BSA for the BSA's older youth marketing for the Scouts BSA program. Both Mr. Kinn and Mr. Rugh report to me.

5. These marketing templates and other marketing materials are stored in "folders" on the BSA's online Brand Center corresponding to each of these programs. A true and correct copy of screenshots reflecting this folder structure is attached as **Exhibit S**.

6. True and correct copies of the BSA's Cub Scouts "flier" templates from the BSA Brand Center are attached as **Exhibit T**. The BSA's Cub Scouts advertising templates feature the Cub Scouts logo, which includes a wolf cub image, the words "Cub Scouts," and a fleur-de-lis. An example is below:



7. True and correct copies of the Scouts BSA “flier” templates from the BSA Brand Center are attached as **Exhibit U**. The BSA’s Scouts BSA advertising templates feature the Scouts BSA logo, which includes a fleur-de-lis with an eagle and a shield with 13 stars and stripes, and two five-pointed stars. An example is below:



8. The BSA also develops separate material for communicating with chartering organizations, such as places of worship, schools, or other community groups that may sponsor a Scouts BSA troop, Cub Scout pack, Venturing crew, Sea Scout ship or Explorer post. True and correct copies of the two Scouts BSA brochures the BSA developed for communicating with chartering organizations are attached as **Exhibits V-W**. (BSA00001363; BSA00001931). These chartering organization brochures are geared toward, and distributed to, chartering organizations, not prospective Scouts or their families. The chartering-organization brochure's call to action – "START A SCOUT TROOP TODAY!" – is not something the BSA would include in materials aimed at parents of potential recruits. This purpose is reflected on slide four of the council

presentation titled “Scouts BSA Membership/Marketing Plan,” which is also found in the “council materials” Scouts BSA folder on the BSA Brand Center, along with those two chartering organization brochures. Attached as **Exhibit X** is a true and correct copy of the “Scouts BSA Membership/Marketing Plan” presentation. (BSA00001466).

The BSA’s Iconic SCOUT-Formative Branding

9. As part of my job duties, I am responsible for ensuring that the BSA’s current branding is consistent with its historical branding efforts. I am thus familiar with how the BSA has used its SCOUT-formative branding over the decades.

10. The BSA was founded in 1910 and chartered by the U.S. Congress in 1916. Historical records confirm that the BSA has used its trademarks SCOUTING, SCOUTS, SCOUT, as well as other SCOUT-formative marks not preceded by a gender indicator, in connection with single gender programs for more than a century. Historical records also confirm that the BSA has used the term “BSA,” as well as its fleur-de-lis logo, for more than a century, and its Cub Scouts name and wolf in the diamond logo for more than 80 years.

11. SCOUT formative branding is deeply ingrained in everything the BSA is and does. The BSA publishes and maintains a “Language of Scouting” reference tool which serves as the “definitive resource on terms and style specific to Scouting and this organization.” Attached as **Exhibit Y** is a true and correct copy of a screen capture of <https://www.scouting.org/resources/los/> that was taken on November 2, 2020. (BSA00170560). These standards have been developed so that the BSA can disseminate resources and other information “in the most professional, consistent, coherent, and uniform manner for all forms of communication.” The Language of Scouting includes approximately three dozen SCOUT-formative terms not preceded by any gender-specific or other term, such as: Scout, Scouter, Scoutmaster, Scoutbook, Scout executive, Scout shop, Scout Oath, Scout Sunday, Scoutorama, Scoutreach, *Scouting* Magazine, Scouting University, Scouting

for Food National Good Turn, ScoutNET, and the like. These SCOUT-formative terms have been in use for many years, and in some cases (like Scout, Scouter, Scout Oath, *Scouting* Magazine, and the like), many decades. *See* Declaration of Tracy Waters (“Waters Decl.”) ¶¶ 7-9, Exh. G-I. As can be seen, it is not the case that the BSA only recently dropped “boy” from its lexicon; much of the BSA’s terminology and branding uses SCOUT-formative terms without a preceding gender-specific term.

12. The BSA holds various trademark registrations for SCOUT-formative marks without preceding gender-specific terms in a variety of contexts. BSA records confirm that these marks have been used in commerce for many decades. For example, the trademark registration number 1,197,851 is for the mark SCOUTING, registered to the Boy Scouts of America. That trademark registration discloses that it was first used in commerce by the BSA in 1913. As another example, the BSA owns trademark registration number 3,937,033 for the mark NATIONAL SCOUT JAMBOREE, and that trademark registration shows it was first used in commerce by the BSA in 1937. The BSA currently uses both of these trademarks, and I understand and believe they have been in use continuously since their first use.

The BSA’s Use of SCOUT-Formative Branding in Connection With Co-Ed Programs

13. During my tenure as a BSA marketing professional, I have become familiar with the BSA’s use of SCOUT-formative branding for all of its programs, including its co-ed programs.

14. Historical records confirm that the BSA has used its SCOUT-formative branding (including SCOUTING, SCOUTS and SCOUT) in various circumstances in connection with its co-ed programs for girls dating back several decades. *See* Waters Decl. ¶¶ 10-13, Exh. J-M. The BSA has also featured both SCOUT-formative branding and images of girls and young women in advertising for its co-ed programs dating back several decades. That trend has increased over the decades, with the addition of each co-ed BSA program from 1970’s onward. Then, and now, the

BSA's use of SCOUT or SCOUTING alone is routinely accompanied by other distinctive BSA branding indicia, including program names, the BSA corporate name, BSA program logos, and the fleur-de-lis. While each program and its members can be identified by their unique name (such as Venturers and Sea Scouts and Stem Scouts), all youth in all of these programs are members of both the BSA, and the World Organization of the Scout Movement ("WOSM," the largest international Scouting organization of which the BSA is a member), and thus all are properly called Scouts. GSUSA is not a member of WOSM; instead, it is a member of the World Organization of Girl Guides and Girl Scouts ("WAGGGS," the largest international Movement dedicated solely to girls and young women). To the best of my knowledge, at no time before 2018 did GSUSA initiate litigation concerning the BSA's non-gender specific use of SCOUT-formative marks in connection with co-ed BSA services, including in connection with marketing imagery featuring girls and young women.

15. For instance, the BSA has long used the trademark NATIONAL SCOUT JAMBOREE to promote its quadrennial gathering of youth members and adult leaders, an event which girls have attended since at least as early as 1989. In 2013, more than 600 female youth members attended that year's National Scout Jamboree as members of BSA's Venturing program, a milestone that received national media coverage.

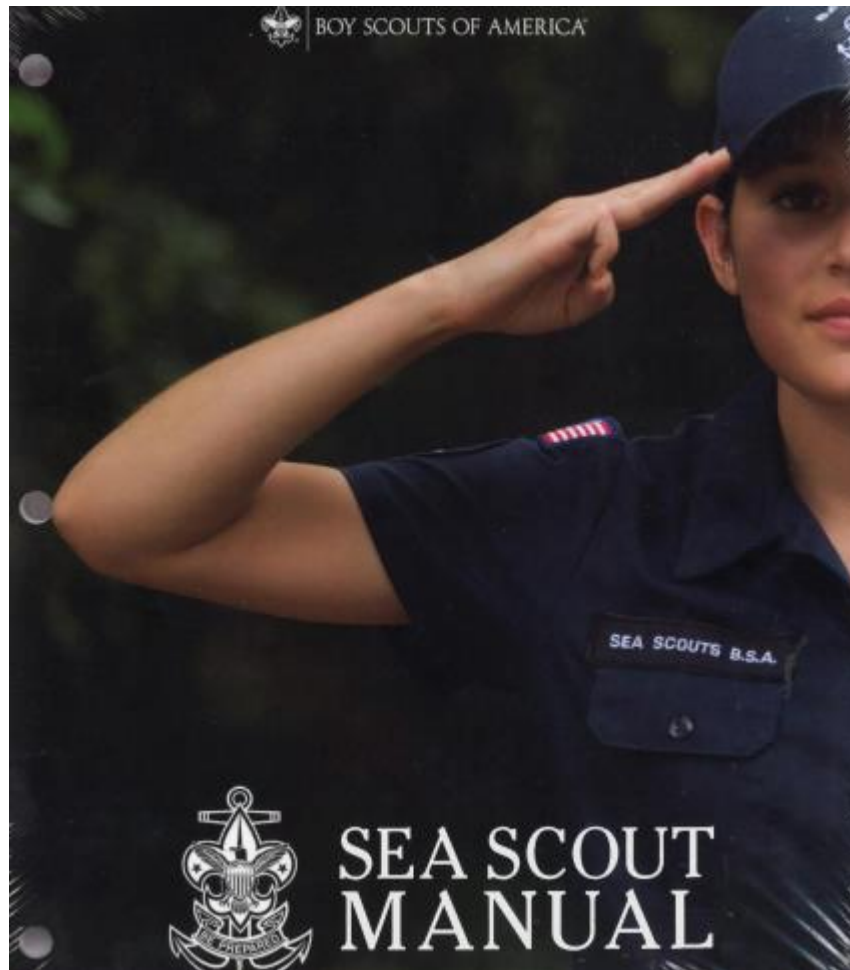
16. Additionally, the BSA uses SCOUT-formative branding in connection with its co-ed Venturing program, which has been in existence since 1998. *See* Waters Decl. ¶ 13, Exh. M. Venturing Terminology guidelines instruct that "[b]ecause Venturing is an aspect of the Scouting program, Venturers can also be referred to as 'Scouts.'" Attached as **Exhibit Z** is a true and correct copy of a screen capture of <https://www.scouting.org/programs/venturing/about-venturing/venturing-terminology/> that was taken on November 13, 2020. (BSA00170928). A

true and correct copy of a 2016 brochure for the BSA's Venturing program is attached as **Exhibit AA**. (BSA00028139). A true and correct copy of a 2015 advertisement for the BSA's Venturing program is attached as **Exhibit BB**. (BSA00165472). A true and correct copy of a 2015 flier for the BSA's Venturing program is attached as **Exhibit CC**. (BSA00165468). An image of Exhibit CC is pictured below, and as can be seen, it features images of female youth members alongside SCOUT-formative branding, including the BSA's recruiting website, beascout.org:



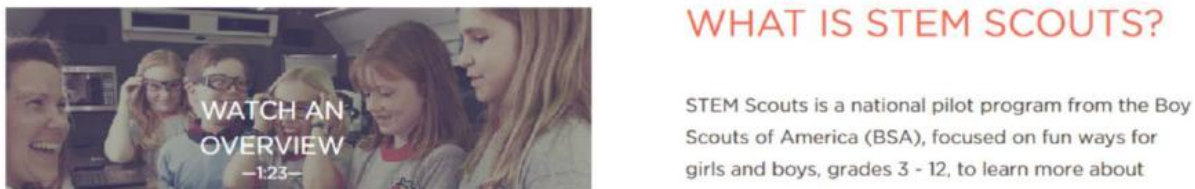
17. Further, the BSA uses SCOUT-formative branding in connection with its co-ed Sea Scouts program. *See* Waters Decl. ¶ 10, Exh. J. Attached as **Exhibit DD** is a true and correct copy of a screen capture of a historical version of the Sea Scouts website, which depicts images of female youth members alongside SCOUT-formative branding, located at <https://web.archive.org/web/20000925230144/http://www.seascout.org/welcome/index2.html>

that was taken on November 21, 2020, which displays the website as it appeared on the internet as of September 25, 2000. (BSA00170996). I was a BSA marketing employee at the time and I recall seeing this website, and this accurately reflects how it appeared at that time. Attached as **Exhibit EE** is a true and correct copy of a screen capture of a historical version of the Sea Scouts website, which depicts images of female youth members alongside SCOUT-formative branding (including “Sea Scouts, B.S.A” and “Scout Resources”), located at <https://web.archive.org/web/20150909165415/http://www.seascout.org/> that was taken on November 16, 2020, which displays the website as it appeared on the internet as of September 9, 2015. (BSA00170955). I was a BSA marketing employee at the time and I recall seeing this website, and this accurately reflects how it appeared at that time. A true and correct copy of the 2016 Sea Scout Manual cover containing an image of a female member alongside SCOUT-formative branding, is attached as **Exhibit FF**. (BSA00074489). An image from Exhibit FF is pictured below, which shows this female Sea Scout wearing a navy Sea Scout Uniform bearing a “Sea Scouts B.S.A.” pocket strip:



18. Furthermore, the BSA uses SCOUT-formative branding in connection with its co-ed STEM Scouts program, which piloted in 2014 and launched in 2015. Attached as **Exhibit GG** is a true and correct copy of the STEM Scouts branding guidelines, including sample imagery depicting both girls and boys alongside SCOUT-formative branding. (BSA00044304). Attached as **Exhibit HH** is a true and correct copy of a screen capture of the current STEM Scouts website, <https://stemscouts.scouting.org>, depicting imagery of both girls and boys alongside SCOUT-formative branding, that was taken on November 13, 2020. (BSA00170858). Attached as **Exhibit II** is a true and correct copy of a screen capture of a historical version of the STEM Scouts website, located at <https://web.archive.org/web/20150514190051/https://stemscouts.org/> that was taken on

November 13, 2020, which displays stemscouts.org, including imagery of both girls and boys alongside SCOUT-formative branding, as it appeared on the internet as of May 14, 2015. (BSA00170863). I was a BSA marketing employee at the time and I recall seeing this website, and this accurately reflects how it appeared at that time. An image from Exhibit II is pictured below:



The BSA's May 2018 Marketing Campaign

19. Consistent with this historical branding, in May 2018, the BSA announced its new SCOUTS BSA program name (replacing the “Boy Scouts” program name), along with its SCOUT ME IN marketing campaign slogan, for use with respect to the BSA’s co-ed programs – including the Cub Scouts and Boy Scouts programs which had announced in October 2017 they would be welcoming girls. The BSA’s research found that parents showed high interest in getting their daughters signed up for programs like Cub Scouts and Boy Scouts, and that girls themselves were also interested in joining these two programs. The BSA’s research also confirmed that today’s modern families are busier than ever, frequently with dual-earner parents both working outside the home or single-parent households, and are interested in a one-stop-shop where both their sons and daughters can participate in activities together.

20. I was personally involved in the selection of the Scouts BSA program name. In selecting a new program name for Boy Scouts that would be inclusive of both genders, we engaged in thoughtful, deliberative, months-long process that involved focus group studies and solicitation of feedback from numerous volunteers and professionals at different levels of the organization.

Through every conversation we had, the name that we kept hearing was “Scouts,” due to the immense, long-standing brand equity the BSA has in that mark. We considered several possible variants on that term, such as Honor Scouts and Merit Scouts. In the end, Scouts BSA was selected. None of the feedback we received regarding Scouts BSA indicated that anyone perceived it to be associated with GSUSA. The Scouts BSA name draws on the long-standing reference to BSA members as “Scouts,” the strength and recognition of the “BSA” brand, and the historical nomenclature for other BSA programs, which in the past have been identified on youth uniforms as “Sea Scouts BSA,” “Cub Scouts BSA” and “Venturing BSA,” for instance. See Waters Decl. ¶¶ 14-19, Exh. G, N-Q. For instance, below is an image of a SCOUT BSA chest strip used in prior years on uniforms:



See Waters Decl. ¶ 19, Exh. Q.

21. Indeed, “Scouts BSA” is not even a new BSA mark. It has been owned and used by the BSA as a web domain dating back to approximately 2001. Attached as **Exhibit JJ** is a true and correct copy of screen captures of historical versions of the Scoutsbsa.org and Scoutsbsa.com websites, located at <https://web.archive.org/web/20010428014635/http://www.scoutsbsa.org/> and <https://web.archive.org/web/20010518012241/http://www.scoutsbsa.com/>, respectively, that were taken on November 20, 2020, which display these BSA websites as they appeared on the internet as of April 28, 2001 and May 18, 2001, respectively. (BSA00170989, BSA00170992). I was a BSA marketing employee at the time and I recall seeing these websites, and this accurately reflects how they appeared at that time.

22. I was personally involved in selecting the Scout Me In slogan. We looked at a few other options, but Scout Me In was the clear winner amongst the various proposals. I distinctly recall the enthusiastic reaction we received from children and their parents in the focus group where we tested the slogan. In particular, I remember a 6 year old child exclaiming, “Scout Me In means Count Me In – it’s brilliant!!” None of the feedback we received regarding Scout Me In indicated that anyone perceived it to be associated with GSUSA. The Scout Me In slogan is a call to action to join in on the fun of BSA programming, and highlights the inclusivity of the BSA’s welcoming of girls into Cub Scouts and Scouts BSA.

23. In practice, the Scout Me In slogan is designed to be used on a program-specific basis. To elaborate, on the BSA Brand Center, we offer various branding and logo assets depicting Scout Me In for use by the BSA and its councils, all of which are “locked up” with either a particular program name and/or logo, or the BSA corporate logo, as follows:

“SCOUT ME IN” asset for Cub Scouts:



“SCOUT ME IN” asset for Scouts BSA:



“SCOUT ME IN” asset for Venturing:



“SCOUT ME IN” asset for Sea Scouts:



“SCOUT ME IN” asset with the fleur-de-lis:



Attached as **Exhibit KK** are true and correct copies of these logos. (BSA00001926, BSA00001717, BSA00001915, BSA00001918, BSA00001537).

24. The BSA brand center does not offer assets depicting the Scout Me In slogan for use by itself. This is intentional, as our goal is to clearly convey which program within the BSA the marketing assets are designed for, and which BSA program we are recruiting for.

25. The BSA did not select either the Scouts BSA program name or the Scout Me In slogan in order to capitalize on GSUSA's reputation or goodwill in any way, shape or form. Nor do either of these marks have any bearing on or connection to GSUSA. The BSA has a very strong and robust brand identity that dates back many decades. The Scouts BSA mark has been used in commerce by the BSA dating back to at least the 1970s (on BSA uniforms) and 2001 (as a BSA website domain). And, the Scout Me In slogan is a natural extension of the BSA's SCOUT-formative brand identity. By contrast, GSUSA has a very different brand identity, which would not appeal to the BSA's target audience.

26. The BSA's marketing materials do not use the term "Girl Scouts" to identify the BSA's members or programs. To the contrary, the BSA forbids the use of that term in marketing materials. In April 2018, before announcing the Scout Me In Campaign, the BSA reminded Local Council Executives that Local Councils and volunteers should not use the term "Girl Scouts" in

reference to BSA members or programs. *See* Declaration of Patrick Sterrett ¶ 4. In September and October 2018, the BSA developed specific branding guidelines which explicitly prohibited use of the word “girl” before “Scout” in marketing materials. A true and correct copy of those guidelines is attached as **Exhibit LL**. (BSA00001424). This guidance was distributed to the field in November 2018 as a one-page infographic and was followed by more detailed training materials the following month. A true and correct copy of those materials is attached as **Exhibit MM**. (BSA0000516).

The BSA’s Investment in Its Branding

27. To the best of my knowledge, GSUSA never previously took legal action against the BSA regarding its long history of using the marks “Scouts,” “Scout,” and “Scouting” in connection with services offered to girls and women. Accordingly, the BSA continued over the years to use these terms and invest substantial resources in such SCOUT-formative branding.

28. As mentioned above, the BSA announced its new Scouts BSA program name (replacing the “Boy Scouts” program name), along with its Scout Me In marketing campaign slogan, on May 2, 2018. In its complaint, GSUSA claims both of these marks are infringing. At no time between the BSA’s May 2, 2018 announcement and GSUSA’s November 6, 2018 filing of this lawsuit did GSUSA ever notify the BSA that it took issue with either the Scouts BSA program name or the Scout Me In campaign slogan. For instance, prior to suing the BSA, GSUSA did not contact BSA leadership to request that the BSA select a program name other than Scouts BSA for its Boy Scouts program. Nor did GSUSA contact BSA leadership to request that it not utilize the Scout Me In slogan. The BSA thus continued to, and did, use these brands in the marketplace after May 2, 2018, at significant expense.

29. The BSA has incurred significant marketing expenses associated with welcoming girls into the Cub Scouts and Scouts BSA programs, and promoting the Scout Me In and Scouts

BSA brands. These expenditures included, but were not limited to, (a) adopting the name “Scouts BSA” as a program name and associated marketing costs for the expanded programs; (b) creating handbooks; (c) creating uniforms and related items, such as T-shirts; (d) re-branding “Boy Scouts” items, and associated costs with each of these. Other expenses included: developing, producing and distributing marketing collateral (logos, flier templates, photography, videos), advertising buys, and revising and updating existing program literature. Documents reflecting examples of these expenses are attached. For example, attached as **Exhibit NN** is a true and correct copy of a document titled “2018 Marketing Group - Family Launch - BudgetTRAC.” (BSA00169236). Attached as **Exhibit OO** is a true and correct copy of a document titled “2019 Cub Scout Marketing - BudgetTRAC.” (BSA00169237). Attached as **Exhibit PP** is a true and correct copy of a document showing development costs for program materials provided to me by the supply group’s merchandising department. (BSA00169240). Attached as **Exhibit QQ** is a true and correct copy of a document listing Scouts BSA and Scout Me In products developed based on this branding. (BSA00169241).

30. Although it would be difficult to quantify the total cost, given how long the BSA’s co-ed programming has existed (nearly 50 years), the BSA has incurred significant costs running its co-ed Sea Scouts, STEM Scouts, Exploring and Venturing programs over the past several decades. The BSA has also invested significantly in branding and goods with SCOUT-formative trademarks without preceding gender-specific term for these co-ed programs, including uniforms, handbooks, and apparel. For instance, the STEM Scouts brand development and marketing alone cost the BSA nearly [REDACTED] from 2016 onward.

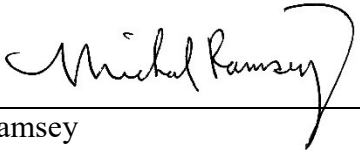
31. In 2006, the BSA launched its e-commerce website to promote and sell goods to youth members and adult volunteers involved in BSA’s programs, including girls. Continuously

from its launch until March of 2018, this website operated under the brand SCOUT STUFF (www.scoutstuff.org), and since March 2018 this website has operated under the brand SCOUT SHOP (www.scoutshop.org). It has sold goods for both boys and girls. To the best of my knowledge, GSUSA did not file suit against the BSA regarding this non-gender specific use of SCOUT dating back to 2006 for a website selling Scouting goods, including to girl members and female adult volunteers.

32. Over the past two to three decades, the BSA has incurred significant expense to register and maintain many Internet domains containing SCOUT-formative trademarks without preceding gender-specific terms. Since at least 1994, the domain used by the BSA for its flagship website has been, and continues to be, scouting.org. In addition, the BSA has registered and maintained the following domains continuously for the last fifteen years or more: scoutingmagazine.org (since 2000), bsascouting.org (since 2000), scoutsbsa.org (since 2000), scoutsbsa.com (since 2000), scoutmasters.com (since 2002), scoutgear.com (since 2002), scoutjamboree.com (since 2004), and beascout.org (since 2007). This list is a small representative sample of the hundreds of BSA domains containing SCOUT-formative trademarks without preceding gender-specific terms that the BSA owns and maintains.

33. WEBELOS is a fanciful BSA term for the most senior Cub Scout rank, for boys and girls approximately 10 years old. It is short for “We’ll Be Loyal Scouts.” The BSA has held a registered trademark for the term since 2017. As reflected in its trademark registration, the BSA has used the WEBELOS trademark since at least as early as 1941.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
November 23, 2020, in Bedford, Texas.



Michael Ramsey